

**BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA**

DOCKET NO. 97-239-C

In Re:

**Proceeding to Establish Guidelines for an
Intrastate Universal Service Fund**

**) Motion to Compel Discovery
) Responses from
) ALLTEL South Carolina, Inc.
)
)
)**

TO: ROBERT D. COBLE, ESQUIRE, attorney for ALLTEL South Carolina, Inc.

South Carolina Cable Television Association ("SCCTA") hereby moves pursuant to Rule 37 of the S.C. Rules of Civil Procedure, 26 S.C. Regs. 103-854, and other applicable rules of practice and procedure of the Public Service Commission of South Carolina ("Commission"), that the Commission compel ALLTEL South Carolina, Inc. ("ALLTEL") to respond to SCCTA's Interrogatory.

On January 13, 2004, counsel for SCCTA served ALLTEL by hand delivery with its Interrogatory (Exhibit 1). On January 23, 2004, ALLTEL filed and served its Responses and Objections to SCCTA's Interrogatory ("Response") (Exhibit 2).

SCCTA's interrogatory provided:

For each service for which you have reduced a rate and received USF funding since inception of the South Carolina USF, state the following:

- a) the minutes of use of such services for each year since 1997; and
- b) the revenues received from the sale of such service for each year since 1997.

ALLTEL's Response objects to the interrogatory on the grounds that the information requested is not relevant and contains confidential and proprietary


information. The Commission's regulation 103-851 controls the broad scope of discovery. It provides that any material relevant to the subject matter involved in the pending proceeding may be discovered unless the material is privileged or is hearing preparation working papers prepared for the pending proceeding. 26 S.C. Regs. 103-851A. "Evidence is relevant if it tends to establish or make more or less probably some matter in issue upon which it directly or indirectly bears.....Evidence is relevant if it makes the desired inference more probable than it would be without the evidence." *State v. Hamilton*, 344 S.C. 344, S.E.2d 586, 591 (Ct. App. 2001); *Winburn v. Minnesota Mutual Life Ins. Co.* 261 S.C. 568, 201 S.E. 2d 372 (Sup. Ct. 1973).

The information sought is relevant to determine whether ALLTEL may have over-recovered money from the USF to date. Under the present USF plan that portion of the USF available to ALLtel is based on its 1997 costs. In addition, the amount it currently takes from the USF is based on projected lost revenues from access charge reductions implemented several years ago. This interrogatory seeks information relevant to the question of whether it is appropriate for Alltel to continue to receive funding based on lost revenue projections from several years ago. The interrogatory requests information which is clearly relevant and it should be answered.

ALLTEL also contends that the information sought is confidential and proprietary. Numerous parties in this proceeding have entered into protective agreements to disclose information which is considered confidential and proprietary. We have contacted counsel for ALLTEL to notify them of our willingness to sign a protective agreement to address any concerns their client may have.

WHEREFORE, SCCTA moves this Commission to compel ALLTEL to provide the responses to the Interrogatory and such other relief as the Commission may deem proper.

ROBINSON, McFADDEN & MOORE, P.C.

By: 
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Attorneys for South Carolina Cable Television
Association

February 9, 2004

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 1997-0239-C**

In Re:

Proceeding to Establish Guidelines
for an Intrastate Universal Service
Fund

CERTIFICATE OF SERVICE

This is to certify that I, Zachari Minton, a Courier with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **Motion to Compel Discovery from ALLTEL South Carolina, Inc.** in the foregoing matter by Hand Delivery addressed as follows:

Robert D. Coble, Esquire
Nexsen Pruet Adams Kleemeier, LLC
1441 Main Street, Suite 1500
Columbia, SC 29202

Dated at Columbia, South Carolina this 9th day of February 2004.



Zachari Minton

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 1997-0239-C

In Re:

Proceeding to Establish Guidelines
for an Intrastate Universal Service
Fund

CERTIFICATE OF SERVICE

This is to certify that I, Angela B. Wedekind , a legal assistant with the law firm of Robinson, McFadden & Moore, P.C., have this day caused to be served upon the person(s) named below the **South Carolina Cable Television Association's Motion to Compel Discovery Responses from Alltel South Carolina** in the foregoing matter by placing a copy of same in the United States Mail, postage prepaid, in an envelope addressed as follows:

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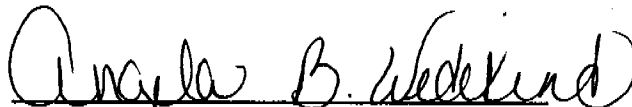
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Dated at Columbia, South Carolina this 9th day of February 2004.


Angela B. Wedekind